

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USCA Docket Number:

USDC Docket Number : 03-cv-12307

Joseph Christoforo

v.

Julio Lupo, et al

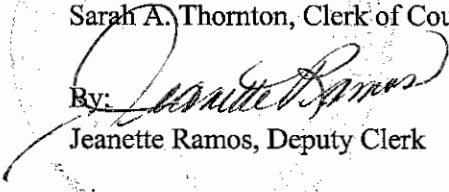
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**CLERK'S CERTIFICATE**

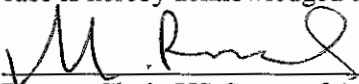
I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 12/13/05.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on December 20, 2005.

Sarah A. Thornton, Clerk of Court

By:   
Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 12/21/05.

  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:03-cv-12307-RGS**

Christoforo v. Lupo  
Assigned to: Judge Richard G. Stearns  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 11/19/2003  
Jury Demand: Defendant  
Nature of Suit: 440 Civil Rights: Other  
Jurisdiction: Federal Question

**Plaintiff**

**Joseph Christoforo**

represented by **Edward J. McCormick, III**  
Gilmore, Reese Carlson & Cataldo,  
P.C.  
1000 Franklin Village Drive  
Franklin, MA 02038  
508-520-2200  
Fax: 508-520-0699  
Email: emccormick@grccpc.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Julio Lupo**

represented by **Joseph W. Monahan, III**  
Monahan & Padellaro  
43 Thorndike Street  
Cambridge, MA 02141  
617-494-1188  
Fax: 617-494-0433  
Email: mplaw@bellatlantic.net  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Thomas J. Freda**  
Monahan & Padellaro  
Bullfinch Square  
43 Thorndike Street  
Cambridge, MA 02141  
617-494-1188  
Fax: 617-494-0433  
Email: bctf79@aol.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Frank G. Cousins, Jr.**  
*Sheriff*  
*TERMINATED: 11/15/2005*

represented by **Douglas I. Louison**  
Merrick, Louison & Costello  
67 Batterymarch Street  
third floor  
Boston, MA 02110  
617-439-0305  
Fax: 617-439-0325  
Email: dlouison@merricklc.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Stephen C. Pfaff**  
Merrick, Louison & Costello  
Suite 3  
67 Batterymarch Street  
Boston, MA 02110  
617-439-0305  
Fax: 617-439-0325  
Email: spfaff@merricklc.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Cross Claimant**

**Frank G. Cousins, Jr.**  
*Sheriff*  
*TERMINATED: 11/15/2005*

V.

**Cross Defendant**

**Julio Lupo**

**Cross Claimant**

**Julio Lupo**

represented by **Joseph W. Monahan, III**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

V.

**Cross Defendant**

**Frank G. Cousins, Jr.**  
*Sheriff*  
*TERMINATED: 11/15/2005*

represented by **Douglas I. Louison**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

**Stephen C. Pfaff**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
03/01/2003	●	Judge Richard G. Stearns : Endorsed ORDER entered granting <u>2</u> Motion to Amend (Flaherty, Elaine) (Entered: 03/02/2004)
11/19/2003	①	COMPLAINT against Julio Lupo Filing fee: \$ 150, receipt number 51819, filed by Joseph Christoforo.(Flaherty, Elaine) (Entered: 11/21/2003)
11/19/2003	●	Summons Issued as to Julio Lupo. (Flaherty, Elaine) (Entered: 11/21/2003)
11/19/2003	●	If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Collings. (Flaherty, Elaine) (Entered: 11/21/2003)
02/05/2004	②	MOTION to Amend <u>1</u> Complaint by Joseph Christoforo.(Flaherty, Elaine) (Entered: 02/09/2004)
03/01/2004	③	AMENDED COMPLAINT against all defendants, filed by Joseph Christoforo.(Flaherty, Elaine) (Entered: 03/04/2004)
03/15/2004	⑥	AFFIDAVIT OF SERVICE Executed by Joseph Christoforo. Frank G. Cousins Jr. served on 3/12/2004, answer due 4/1/2004. Acknowledgement filed by Joseph Christoforo. (Flaherty, Elaine) (Entered: 03/24/2004)
03/16/2004	④	MOTION for Extension of Time to serve process by Joseph Christoforo. (Flaherty, Elaine) (Entered: 03/17/2004)
03/22/2004	⑤	ANSWER to Amended Complaint by Frank G. Cousins Jr..(Flaherty, Elaine) (Entered: 03/24/2004)
04/02/2004	●	Judge Richard G. Stearns : Endorsed ORDER entered granting <u>4</u> Motion for Extension of Time (Flaherty, Elaine) (Entered: 04/05/2004)
04/20/2004	⑦	NOTICE of Scheduling Conference entered. Scheduling Conference set for 5/17/2004 03:30 PM in Courtroom 21 before Judge Richard G. Stearns. (Johnson, Mary) (Entered: 04/29/2004)
04/29/2004	⑧	AFFIDAVIT OF SERVICE Executed by Joseph Christoforo. Julio Lupo served on 4/22/2004, answer due 5/12/2004. Acknowledgement filed by Joseph Christoforo. (Flaherty, Elaine) (Entered: 05/04/2004)
05/12/2004	⑨	JOINT STATEMENT re scheduling conference. (Flaherty, Elaine) (Entered: 05/24/2004)
05/17/2004	●	Electronic Clerk's Notes for proceedings held before Judge Richard G. Stearns : Scheduling Conference held on 5/17/2004. Atty. McCormack present for the pltf. Atty. Louison present for the deft. All written discovery shall be completed by 10/15/04. All fact discovery shall be completed by 12/15/04. Dispositive motions shall be filed by 1/15/05, with responses due 14 days thereafter, unless extended by the Court. Case will be ready for trial after February, 2005. (Court Reporter None.) (Johnson, Mary) Modified on 6/9/2004 (Johnson, Mary). (Entered: 05/17/2004)



		06/09/2004)
06/15/2004	<u>10</u>	ANSWER to Amended Complaint by Julio Lupo.(Flaherty, Elaine) (Entered: 06/15/2004)
06/21/2004	<u>11</u>	MOTION to Amend <u>5</u> Answer to Amended Complaint and to file cross claim by Frank G. Cousins Jr..(Flaherty, Elaine) (Entered: 06/22/2004)
06/24/2004	<u>12</u>	RESPONSE to Motion re <u>11</u> MOTION to Amend <u>5</u> Answer to Amended Complaint filed by Joseph Christoforo. (Flaherty, Elaine) (Entered: 06/30/2004)
06/28/2004	<u>14</u>	ANSWER to Crossclaim, CROSSCLAIM against Frank G. Cousins Jr. by Julio Lupo.(Flaherty, Elaine) (Entered: 07/07/2004)
07/01/2004		Judge Richard G. Stearns : endorsed ORDER entered granting <u>11</u> Motion to Amend (Flaherty, Elaine) (Entered: 07/02/2004)
07/01/2004	<u>13</u>	ANSWER to Amended Complaint, CROSSCLAIM against Julio Lupo by Frank G. Cousins Jr..(Flaherty, Elaine) (Entered: 07/02/2004)
07/01/2004	<u>15</u>	ANSWER to Crossclaim by Frank G. Cousins Jr..(Flaherty, Elaine) (Entered: 07/07/2004)
12/23/2004	<u>16</u>	Joint MOTION for Extension of Time to 2/11/05 to Complete Discovery by Frank G. Cousins, Jr, Joseph Christoforo, Julio Lupo.(Flaherty, Elaine) (Entered: 01/06/2005)
01/05/2005		Judge Richard G. Stearns : ElectronicORDER entered granting <u>16</u> Motion for Extension of Time to Complete Discovery Discovery due by 2/11/2005. (Flaherty, Elaine) (Entered: 01/06/2005)
01/05/2005	<u>17</u>	NOTICE of Change of Address by Edward J. McCormick, III (Flaherty, Elaine) (Entered: 01/11/2005)
01/20/2005	<u>18</u>	MOTION to Compel <i>Plaintiff to Answer Interrogatories and Production of Documents</i> by Julio Lupo.(Freda, Thomas) (Entered: 01/20/2005)
01/20/2005	<u>19</u>	MEMORANDUM in Support re <u>18</u> MOTION to Compel <i>Plaintiff to Answer Interrogatories and Production of Documents</i> filed by Julio Lupo. (Freda, Thomas) (Entered: 01/20/2005)
01/27/2005	<u>20</u>	MOTION for Extension of Time to 3/20/05 to Complete Discovery by Joseph Christoforo.(Flaherty, Elaine) (Entered: 02/08/2005)
02/07/2005		Judge Richard G. Stearns : Electronic ORDER entered granting <u>20</u> Motion for Extension of Time to Complete Discovery (Flaherty, Elaine) Modified on 2/8/2005 (Flaherty, Elaine)."No further extensions will be granted." Hard copy of Judge's endorsement mailed to all parties this day through U.S. Mail. (Entered: 02/08/2005)
02/24/2005	<u>21</u>	Judge Richard G. Stearns : ORDER entered granting <u>18</u> Motion to Compel (Flaherty, Elaine) (Entered: 02/24/2005)
03/08/2005	<u>22</u>	AFFIDAVIT of Thomas J. Freda <i>Regarding Discovery Non-Compliance</i>

		by Plaintiff by Julio Lupo. (Freda, Thomas) (Entered: 03/08/2005)
03/09/2005	<u>23</u>	CERTIFICATE OF Discovery by Joseph Christoforo in response to <u>22</u> Affidavit, filed.(Flaherty, Elaine) (Entered: 03/10/2005)
03/14/2005	<u>24</u>	Judge Richard G. Stearns : ORDER entered. (Flaherty, Elaine) (Entered: 03/14/2005)
03/23/2005	<u>25</u>	Joint MOTION for Extension of Time to May 20, 2005 to File <i>Summary Judgment</i> by Frank G. Cousins, Jr.(Pfaff, Stephen) (Entered: 03/23/2005)
05/19/2005	<u>26</u>	Joint MOTION for Extension of Time <i>for Filing Summary Judgment</i> by Frank G. Cousins, Jr.(Pfaff, Stephen) (Entered: 05/19/2005)
05/20/2005		Judge Richard G. Stearns : Electronic ORDER entered granting <u>25</u> Motion for Extension of Time to File, granting <u>26</u> Motion for Extension of Time (Flaherty, Elaine) (Entered: 05/20/2005)
06/17/2005	<u>27</u>	MOTION for Summary Judgment by Frank G. Cousins, Jr.(Pfaff, Stephen) (Entered: 06/17/2005)
06/17/2005	<u>28</u>	MEMORANDUM in Support re <u>27</u> MOTION for Summary Judgment filed by Frank G. Cousins, Jr. (Attachments: # <u>1</u> )(Pfaff, Stephen) (Entered: 06/17/2005)
06/20/2005	<u>29</u>	MOTION for Summary Judgment by Julio Lupo.(Freda, Thomas) (Entered: 06/20/2005)
06/20/2005	<u>30</u>	MEMORANDUM in Support re <u>29</u> MOTION for Summary Judgment <i>Defendant will supplement filing with Exhibits</i> filed by Julio Lupo. (Freda, Thomas) (Entered: 06/20/2005)
07/01/2005	<u>31</u>	MOTION for Extension of Time to july 29, 2005 to File Response/Reply <i>Assented to Motion to Extend Time to File Oppositions to the Defendants' Motions for Summary Judgment</i> by Joseph Christoforo.(McCormick, Edward) (Entered: 07/01/2005)
07/05/2005	<u>32</u>	ADDENDUM re <u>29</u> MOTION for Summary Judgment <i>Attached exhibits to Lupo Motion for Summary Judgment</i> filed by Julio Lupo. (Freda, Thomas) (Entered: 07/05/2005)
07/12/2005		Judge Richard G. Stearns : Electronic ORDER entered granting <u>31</u> Motion for Extension of Time to File Response/Reply (Flaherty, Elaine) (Entered: 07/13/2005)
07/28/2005	<u>33</u>	MOTION to Stay by Joseph Christoforo.(McCormick, Edward) (Entered: 07/28/2005)
07/28/2005	<u>34</u>	MEMORANDUM in Opposition re <u>29</u> MOTION for Summary Judgment filed by Joseph Christoforo. (McCormick, Edward) (Entered: 07/28/2005)
07/28/2005	<u>35</u>	Opposition re <u>27</u> MOTION for Summary Judgment filed by Joseph Christoforo. (McCormick, Edward) Additional attachment(s) added on 8/3/2005 (Flaherty, Elaine). Additional attachment(s) added on 8/3/2005

		(Flaherty, Elaine). (Entered: 07/28/2005)
08/02/2005	●	Judge Richard G. Stearns : Electronic ORDER entered granting <u>33</u> Motion to Stay "Deposition to be completed within thirty (30) days. Any supplemental pleadings to be filed within twenty-one(21) days thereafter." (Flaherty, Elaine) (Entered: 08/03/2005)
08/15/2005	●	Electronic NOTICE of Hearing issued to counsel: "a hearing on defts' Motions for Summary Judgment is scheduled for: Thursday, November 3, 2005 at 2:30 P.M. before Judge Stearns". (Johnson, Mary) Modified on 8/15/2005 (Johnson, Mary). (Entered: 08/15/2005)
11/09/2005	● <u>36</u>	MOTION for Leave to File by Joseph Christoforo.(McCormick, Edward) (Entered: 11/09/2005)
11/09/2005	● <u>37</u>	MOTION for Leave to File by Joseph Christoforo.(McCormick, Edward) (Entered: 11/09/2005)
11/10/2005	●	Judge Richard G. Stearns : ElectronicORDER entered denying <u>36</u> Motion for Leave to File, denying <u>37</u> Motion for Leave to File "Denied as untimely." (Flaherty, Elaine) (Entered: 11/10/2005)
11/14/2005	● <u>38</u>	Judge Richard G. Stearns : MEMORANDUM AND ORDER on Defendants' Motions for Summary Judgment, ENTERED.(Flaherty, Elaine) (Entered: 11/14/2005)
11/14/2005	●	Civil Case Terminated. (Flaherty, Elaine) (Entered: 11/14/2005)
11/15/2005	●	Case Reopened. (Johnson, Mary) (Entered: 11/15/2005)
12/13/2005	● <u>39</u>	NOTICE OF APPEAL by Joseph Christoforo. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals. Appeal Record due by 1/2/2006. (McCormick, Edward) Modified on 12/14/2005 (Flaherty, Elaine). (Entered: 12/13/2005)